

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
IN RE PHARMACEUTICAL INDUSTRY	)	MDL No. 1456
AVERAGE WHOLESALE PRICE	)	
LITIGATION	)	CIVIL ACTION NO. 01-12257-PBS
_____	)	
THIS DOCUMENT RELATES TO ALL	)	
ACTIONS	)	
_____	)	

**CASE MANAGEMENT ORDER [7]**

I. Briefing and Disposition of Motions to Dismiss  
The Amended Master Consolidated Complaint

1. Defendants named in the Amended Master Consolidated Complaint ("AMCC") shall file responsive pleadings or otherwise move by August 1, 2003.

2. Plaintiffs shall file their opposition(s) to any responsive motion(s) by September 15, 2003.

3. Defendants shall reply to any opposition(s) by September 30, 2003.

4. Plaintiffs shall file any sur-reply by October 15, 2003.

5. A hearing on Motions to Dismiss or other responsive pleadings shall be set for **Friday, November 21, 2003 at 2:00 p.m.** or such other date and time as the Court shall designate.

6. The page limits set forth in the Court's Order of November 6, 2002 shall apply to the briefing of motions to dismiss the AMCC. Defendants shall also be allowed an additional joint brief, not to exceed 20 pages in length, addressing only

issues related to claims concerning the Together Rx card set forth in the AMCC. Plaintiffs shall be allowed a 20-page brief as to the Together Rx issues.

II. Allowed Discovery Pending Decision on  
Motions to Dismiss

1. Plaintiffs shall conduct discovery on claims set forth against a defendant named in the MCC that was not dismissed as to both Class 1 and Class 2 claims. The specific drugs subject to discovery are those identified in the defendant-specific allegations of the MCC if the MCC identified a specific plaintiff who purchased the drug. There shall be no discovery on multi-source drugs.

2. Fact discovery by plaintiffs and defendants with respect to these drugs shall be completed by March 1, 2004. Plaintiffs shall submit expert reports by April 1, 2004. Defendants shall submit expert reports by May 1, 2004. Expert depositions shall be taken by July 1, 2004. Motions for summary judgment shall be filed by July 15, 2004. Oppositions shall be filed by July 30, 2004. Any reply shall be filed by August 15, 2004, and any sur-reply two weeks later.

3. All non-dismissed defendants are directed to supplement their document productions under the order of this Court dated October 28, 2002 (relating to production of documents produced to governmental bodies concerning AWP matters) by producing all

documents produced by a non-dismissed defendant in response to recent subpoenas issued by the House Energy and Commerce Committee, or any other governmental body, by making such documents available to counsel for the plaintiffs for inspection and photocopying within 30 days.

4. No deposition of a party, a third-party witness, or a witness designed pursuant to Fed. R. Civ. P. 36 shall last longer than fourteen hours for the plaintiffs and fourteen hours for the defendants without permission of the Court.

5. A party may record a deposition by videotape pursuant to Fed. R. Civ. P. 30(b)(2) and (3). The party's intention to record the deposition by videotape must be indicated in the written notice of the deposition. The parties shall negotiate in advance in writing the ground rules for the videotaping.

### III. Plaintiffs' Motion for Class Certification

1. Any class discovery should be completed by March 1, 2004.

2. Expert reports shall be disclosed by plaintiffs by April 1, 2004. Defendants' disclosures are due May 1, 2004. Any expert depositions shall be taken by July 1, 2004.

3. Class certification Motion is due to be filed on July 15, 2004. Any opposition is due July 30, 2004. Plaintiffs' reply is due August 15, 2004, and the sur-reply two weeks later.

### IV. Scheduling Conference

The Court will hold a scheduling conference after ruling on the motions to dismiss the AMCC to determine deadlines for additional discovery.

**s/Patti B. Saris**

United States District Judge